



DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
BOISE REGULATORY OFFICE
720 EAST PARK BOULEVARD, SUITE 245
BOISE, IDAHO 83712-7757

10 February 2021

REGULATORY DIVISION

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

SUBJECT: NWW-2021-00077, Ace Black Ranch-Bruneau River Dredge and Fill

Mr. Terry Black
Ace Black Ranches, LLP
28892 Hot Springs Road
Bruneau, ID 83604

Dear Mr. Black:

It has come to the attention of the U.S. Army Corps of Engineers (Corps) that you, or persons acting for you, may have discharged dredged or fill material below the ordinary high water mark (OHWM) of the Bruneau River, and in sloughs and wetlands adjacent to the Bruneau River. Based on our initial review, we have made a preliminary determination that the Bruneau River, the sloughs, and the adjacent wetlands where work is alleged to have occurred may be waters of the United States (WOTUS). The site in question is located within Section 30 and 31 of Township 6 South, Range 6 East, and Section 25 and 36 of Township 6 South, Range 5 East, near latitude 42.866133° N and longitude -115.795478° W, in Owyhee County, near the City of Bruneau, Idaho.

Please refer to File Number NWW-2021-00077 in all future correspondence with our office regarding this matter.

A review of our records indicates that no Department of the Army (DA) permit has been issued for this alleged activity. Section 404 of the Clean Water Act (CWA) requires that a DA permit be obtained for the discharge of dredged and/or fill material into WOTUS, including jurisdictional wetlands (33 U.S.C. § 1344). Section 301 of the CWA (33 U.S.C. § 1311) prohibits discharges of dredged or fill material into WOTUS unless the work has been authorized by a Department of the Army permit. Persons violating Section 301 are subject to administrative, civil, and criminal penalties under Section 309 of the CWA (33 U.S.C. § 1319). Under the CWA, restoration of the site to its pre-violation condition may also be required.

You are advised not to perform any work that requires DA authorization without obtaining that authorization. If you have any questions about the Corp's regulations, please contact the Regulatory project manager listed below.

An investigation will be conducted to determine whether a violation of Section 301 of the CWA occurred and, if so, the extent of the violation, whether there are any mitigating factors, and the appropriate resolution. To facilitate our investigation, you are requested to provide in writing the following information:

1. The name, address, and telephone number of any contractor(s) who performed the work and all owners of the property or properties where the work occurred (if the activity extends to multiple properties, which you may or may not own). You are also requested to provide the name and address of any consultant or engineer who designed, directed, or oversaw the work;
2. The date(s) of work, a drawing showing the dimensions and areas where work was conducted, and any other site plans for the work, along with all state and local permits obtained;
3. Your reason for performing the work and your explanation of why the work was performed without Department of the Army authorization; and
4. The amount of material excavated and/or discharged and the area of wetlands or other waters affected.

Your written response to these questions must be submitted by 12 March 2021 to the U.S. Army Corps of Engineers, Boise Regulatory Office at the address above or electronically to the email listed below.

The Corps is currently in communication with Region 10 of the U.S. Environmental Protection Agency (EPA) regarding this case. In accordance with the Field Level Agreement (FLA) between the Corps and EPA (Region 10) "Concerning the Coordination of Enforcement Actions under Section 404 of the Clean Water Act", this case may be partially or wholly referred to the EPA for further action. The Corps is aware that the EPA is preparing an information request letter to you to assist in their initial investigation of this case. The Corps will be copied on the EPA's letter.

Please contact William Schrader by telephone at (208) 509-0977, by mail at the address in the letterhead, or via e-mail at william.c.schrader@usace.army.mil if you have any questions or need additional information. We are furnishing copies of this letter to Telby Black with Ace Black Ranches, LLP; the EPA; the Idaho Department of Fish and Game; the Idaho Department of Lands; the Idaho Department of Environmental Quality; and the Idaho Department of Water Resources.

Sincerely,

A handwritten signature in blue ink that reads "Kelly J. Urbanek". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kelly J. Urbanek
Chief, Regulatory Division
Walla Walla District